

SENATE BILL No. 389

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-31.

Synopsis: Adult education tax credit. Establishes an adult education tax credit. Allows employers to receive a tax credit of up to \$300 per employee and up to \$5,000 per year for payment of an employee's expenses related to an adult education program.

Effective: January 1, 2007.

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January 11, 2006, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 389

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2007]:

4 **Chapter 31. Adult Education Tax Credit**

5 **Sec. 1. As used in this chapter, "adult education program"**
6 **means an education program with the principal purpose of:**

- 7 (1) helping an employee become literate;
8 (2) helping an employee obtain a general educational
9 development (GED) diploma issued under IC 20-20-6;
10 (3) teaching an employee English as a second language;
11 (4) providing citizenship training for an employee who is an
12 immigrant; or
13 (5) providing vocational training for an employee.

14 **Sec. 2. As used in this chapter, "credit" refers to an adult**
15 **education tax credit granted under this chapter.**

16 **Sec. 3. As used in this chapter, "eligible education expense"**
17 **means a payment for education expenses related to an adult**



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education program. The term does not include expenses for meals, lodging, or transportation.

Sec. 4. As used in this chapter, "employee" means an individual who:

- (1) is an employee of an employer; and
- (2) has the employee's principal place of business with the employer in Indiana.

Sec. 5. As used in this chapter, "employer" means a corporation, person, or pass through entity that employs at least one (1) employee.

Sec. 6. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 6-5.5 (the financial institutions tax); and
- (3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "vocational education" means any postsecondary vocational, agricultural, occupational, manpower, employment, or technical training or retraining of less than a baccalaureate level that enhances an individual's career potential.

Sec. 9. (a) An employer who pays for eligible education expenses of an eligible employee is eligible for a credit in a taxable year against the employer's state tax liability in the taxable year.

(b) Except as provided in subsections (c) and (d), the amount of the credit is equal to twenty-five percent (25%) of the sum of the employer's payments for an employee's eligible education expenses in a taxable year.

(c) The amount of the credit claimed by an employer in a taxable year may not exceed five thousand dollars (\$5,000).

(d) The amount of the credit attributable to each employee who incurs eligible education expenses may not exceed three hundred dollars (\$300).

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Sec. 10. (a) If:

(1) a pass through entity does not have state income tax liability against which the credit provided by this chapter may be applied; and

(2) the pass through entity would be eligible for a credit under this chapter if the pass through entity were a taxpayer; a shareholder, partner, or member of the pass through entity is entitled to a credit under this chapter.

(b) Subject to this chapter, the amount of the credit to which a shareholder, partner, or member is entitled is equal to:

(1) the credit determined for the pass through entity for the taxable year as if the pass through entity were a taxpayer with state tax liability in the amount of the credit; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 11. (a) If the amount of the credit provided under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to subsequent taxable years. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for not more than five (5) taxable years following the unused credit year. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 12. (a) A taxpayer desiring to obtain a credit under this chapter must apply to the department of workforce development for a certification that the taxpayer's payments for eligible education expenses related to an adult education program qualify for a credit under this chapter.

(b) If the department of workforce development determines that the payments are eligible for a credit under this chapter, the department shall certify the taxpayer's payments.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must:

(1) claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue;

(2) submit to the department of state revenue, along with the taxpayer's state tax return or returns, a copy of the certificate

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1 issued by the department of workforce development to the
2 taxpayer under section 12(b) of this chapter;

3 (3) submit proof to the department of state revenue that the
4 employees who incurred the eligible education expenses for
5 which the credit is claimed:

6 (A) remained employed by the employer for at least
7 thirteen (13) consecutive weeks; and

8 (B) worked a minimum of four hundred fifty-five (455)
9 hours;

10 after incurring the expenses; and

11 (4) submit all other information that the department of state
12 revenue determines is necessary for the calculation of the
13 credit provided by this chapter.

14 SECTION 2. [EFFECTIVE JANUARY 1, 2007] IC 6-3.1-31, as
15 added by this act, applies only to taxable years beginning after
16 December 31, 2006.

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